

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

April 1, 2013

Kent Walker
Senior Vice President and General Counsel
Google Inc.
1600 Amphitheatre Parkway
Mountain View, CA 94043

Dear Mr. Walker:

On November 28, 2012, I convened a stakeholders meeting in Fort Lauderdale, Florida for the National Association of Attorneys General Intellectual Property Committee. This meeting highlighted that many of the concerns I have brought to your attention in the past have not been addressed and continue to threaten the lives and livelihoods of millions of American families and companies. These concerns, which a growing number of attorneys general share, range from a failure to stop illegal sites from selling stolen intellectual property to the prevalence of illegal drugs and other products and services that are promoted and even sold through Google platforms.

As you heard during the meeting, attorneys general are concerned about problems with Google's search algorithm, which often leads to sites known to sell counterfeit goods being at the top of the search results. Moreover, attorneys general are concerned about the fact that some of the sites selling counterfeit goods are advertising with Google, which places Google on notice and in the position of being an accessory before the fact to the sale of counterfeit items.

Our concerns were reinforced by the Immigration and Customs Enforcement Director John Morton, who described chilling examples of the harm to our citizens that can be inflicted by counterfeit products for sale on the Internet. No sector or company should suffer or profit from this illegal and harmful commerce.

As you know, these concerns are not new. Despite multiple requests for information from your company, or from its consultants and advocates, no substantive response has been forthcoming. I and others are increasingly troubled by your company's

deliberately evasive responses and unwillingness to make meaningful reforms. These failures, set forth below, show a lack of commitment to making the Internet a safe place for families and commerce. For example:

Promotion of Counterfeit and Illegal Drugs - It has been a year and a half since Google entered into a Non Prosecution Agreement with the Department of Justice and the state of Rhode Island for its role in facilitating the sale of illegal off shore pharmaceuticals, yet Google platforms continue to promote and profit from these dangerous and illegal activities. Most disturbingly, children are still able to purchase drugs without a prescription through Google.

No Improvement on Sites Providing Counterfeit Goods and Pirated Content- During the November meeting referenced above, your colleague, Katie Oyama, claimed that Google has made extensive progress in lowering the rankings of sites that received significant numbers of DMCA notices through a change in Google's algorithm last August. There is no evidence, however, that this is in fact happening. Indeed, during the IP committee meeting in November, an attorney general went online and found that sites peddling counterfeit and pirated goods are still appearing at the top of search results. Moreover, as you are no doubt aware, the RIAA has released a comprehensive report showing that no significant change to search results have occurred over the last six months.

In fact, many of the sites that appear prominently in your own Transparency Report continue to appear at the top of Google search results. These are sites for which you have received hundreds of thousands of DMCA notices. Additionally, Google's autocomplete tool continues to facilitate searches for illegal content on rogue websites such as pharmaceuticals, movies, recordings, and other products.

Google's lack of meaningful action is unacceptable. At the meeting in Florida, Ms. Oyama suggested these infringing sites are not as bad as they appear on the surface and offer legal as well as illegal content. She claimed that regulating search was "complicated."

Attorneys general view this differently. The law is crystal clear that certain drugs cannot and should not be sold online without a valid prescription. There is also nothing complicated about Pirate Bay, a site that has been adjudicated in a court. There is nothing complicated about following your own terms of service or eliminating autocomplete terms such as "buy oxycodone online without a prescription."

In February, the co-chairs of the committee sent letters to the search engine community. We look forward to your responses to those questions, which our office has tried to obtain as recently as this week. In addition, I would like to meet with you

in April to discuss the greater problem and what Google is committed to doing about it. Your colleagues who have attended previous meetings have not been eager to help. I would like to give you the chance to address the problem.

We are interested in achieving a consensus on voluntary action that members of the search and ecommerce community can take to eliminate or significantly reduce infringing activities. However, if voluntary actions will not suffice, we will take legal action to change behavior to protect consumers and the integrity of economic commerce on the Internet.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Jim Hood", is written over a printed name.

Jim Hood
Attorney General

CC: Susan Molinari